

ESTTA Tracking number: **ESTTA417762**Filing date: **07/05/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	Heckler & Koch GmbH		
Entity	Corporation	Citizenship	Germany
Address	Heckler & Koch Strasse 1 Oberndorf/Neckar, D-78727 GERMANY		

Attorney information	Daniel R. Cooper Cooper & Kurz 170 Eden Roas Stamford, CT 06907 UNITED STATES kurzcooper@att.net Phone:203-322-4852
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Registration Subject to Cancellation

Registration No	3300404	Registration date	10/02/2007
Registrant	MURRAY INVESTMENTS, LLC PO BOX 143043 FAYETTEVILLE, GA 30214 UNITED STATES		

Goods/Services Subject to Cancellation

Class 025. First Use: 1998/06/00 First Use In Commerce: 1998/06/00
All goods and services in the class are cancelled, namely: CLOTHING, NAMELY, SWEATSHIRTS, T-SHIRTS, JEANS, JACKETS, HATS, SKIRTS, BOXER SHORTS, TANK TOPS AND BANDANAS

Grounds for Cancellation

<i>Torres v. Cantine Torresella S.r.l.Fraud</i>	808 F.2d 46, 1 USPQ2d 1483 (Fed. Cir. 1986)
Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Petitioner as Basis for Cancellation

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	word mark HK		
Goods/Services	clothing, namely T-shirts,turtlenecks, polo shirts,golf shirts,jackets, rain coats, anoraks, pullovers, sweaters; caps and hats as headgear		

Attachments	hk cancellation petition.pdf (7 pages)(509146 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/drc/
Name	Daniel R. Cooper
Date	07/05/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

IN RE: Registration No. 3300404

MARK: "HK"

ISSUE DATE: October 2, 2007

HECKLER & KOCH GMBH)	
)	
Petitioner,)	
)	Cancellation No.
<hr style="width: 20%; margin-left: 0;"/>		
v.)	
)	
MURRAY INVESTMENTS, LLC)	
)	
Registrant)	
)	

PETITION FOR CANCELLATION

Heckler & Koch GmbH (hereinafter "Petitioner"), organized and existing under the laws of Germany, having its principal place of business at Heckler & Koch Strasse 1, Oberndorf/Neckar, Germany, believes that it is damaged by the existence of Registration No. 3300404, and hereby petitions to cancel the same under the provisions of 15 U.S.C. § 1064. As grounds for cancellation, Petitioner asserts the following:

1. Petitioner is a leading, world-renowned manufacturer of firearms, providing its weapons to, among others, the United States military, as well as uniformed services and law enforcement agencies worldwide. Its civilian business in the

sale of firearms is conducted through a network of distributors and/or retailers, all under its principal trademark "HK", which enjoys worldwide recognition.

2. Petitioner also sells various ancillary products under its trademark "HK", including articles of clothing in International Class 25.

3. Petitioner has been using its "HK" mark on articles of clothing in the United States since at least the year 2000. Petitioner is the owner of several "HK" registrations, the earliest being "HK", U.S. Reg. No. 765314, dating to February 1964 and registered in International Classes 07 and 13. Petitioner also owns registrations for: "HK" U.S. Reg. No. 2715006 in International Classes 08 and 13; "HK USP" U.S. Reg. No. 1832127 in International Class 13;; and "HK 416", U.S. Reg. No. 3345127, in International Class 013. Petitioner is also the owner of Application No. 79054782 for "HK" in International Classes 013 and 028 and U.S. Application No. 79083128 for "HK 417", also in International Classes 013 and 028, and others.

4. On January 30, 2003, SOHK Sportswear Inc., a New York corporation (hereinafter "SOHK"), filed an application to register the mark "HK" under Section 1(a) of the Lanham Act. *See*, Trademark Act, 15 U.S.C. § 1051. SOHK obtained Registration No. 3300404, issued on October 2, 2007, for articles of clothing in International Class 25.

5. Upon information and belief, on October 27, 2010, Registration No. 3300404 was assigned to Murray Investments, LLC (hereinafter "Registrant").
6. On December 6, 2010, Petitioner filed application No. 85191139 "HK" in Class 25 against which the PTO cited registration No. 3300404.
7. Upon information and belief, Registrant is a business entity incorporated in the State of Georgia.

First Basis for Cancellation – Abandonment

8. In its application, SOHK claimed use in commerce from June 1998.
9. Upon information and belief, SOHK has not used the trademark "HK" in commerce between the years 1998, when first use was claimed, and the time of the filing of the application. Upon information and belief, neither SOHK nor Registrant has used the mark after 2003.
10. Upon information and belief, SOHK had no intention to commence bona fide use of the mark "HK" in the ordinary course of trade.
11. Upon information and belief, SOHK was conducting its business under, and using, the trademarks "School of Hard Knocks", Reg. Nos. 1975106 and 2491745; "SOHK", Reg. No. 1975108, and others, but never under the trademark "HK."
12. Upon information and belief, SOHK has ceased business activities in 2008.
13. As a result of the foregoing, Petitioner asserts that SOHK had abandoned the trademark "HK."

14. Due to the abandonment by SOHK, Petitioner contends that Registrant did not acquire any rights to Registration No. 3300404 through the purported assignment of October 27, 2010.

Second Basis for Cancellation – Fraud

15. Upon information and belief, SOHK never used the mark “HK” as applied for. Petitioner believes that SOHK alleged a false date of first use in its application.

16. In support of its application, filed January 30, 2003, claiming use of “HK” per se, SOHK submitted a specimen or label that consisted of the words “Hard Knocks” combined with the acronym “HK” as part of the label and some further descriptive terms. Such combination design label did not support nor entitle SOHK to claim that “HK” had been used as a word mark.

17. Therefore, upon information and belief, Petitioner contends that SOHK made false statements of material fact to the United States Patent and Trademark Office (PTO) relating to the use in commerce of the trademark “HK.”

18. The PTO relied on these false statements about SOHK’s purported use of the trademark “HK” to allow the application for Reg. No. 3300404 to proceed to registration as a per se word mark.

Third Basis for Cancellation – Prior Use

19. Petitioner claims continuous use of the trademark "HK" in International Class 25 since at least 2000.

20. Upon information and belief, neither SOHK nor Registrant have ever used the mark "HK" on goods in International Class 25.

21. Petitioner therefore claims prior use of its "HK" trademark, and contends that its "HK" mark is the senior mark with respect to use of "HK" in commerce in the United States.

Fourth Basis for Cancellation – Dilution

22. Petitioner asserts that its trademark "HK" has achieved worldwide fame and notoriety for firearms and weaponry.

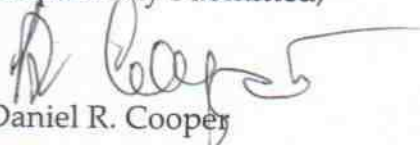
23. Petitioner therefore claims that use by Registrant of its mark "HK" dilutes and impairs the distinctiveness of its "HK" trademark, and implies a relationship with or endorsement by Petitioner and Petitioner will be damaged.

WHEREFORE, Petitioner prays that Registration No. 3300404 be cancelled because: (1) Registrant's "HK" mark has been abandoned by SOHK and Registrant (2) the registration was obtained under false declarations of material fact; (3) Petitioner has used its "HK" mark in International Class 25 prior to any use and application by SOHK / Registrant of their "HK" mark; and (4) because

use by Registrant would dilute and impair the distinctiveness of Petitioner's trademark "HK."

June 16, 2011

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "D. Cooper", with a long horizontal flourish extending to the right.

Daniel R. Cooper

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ATTORNEY FOR

PETITIONER

Certificate of Service

I hereby certify that a true and complete copy of the foregoing "Petition For Cancellation" has been deposited with the United States Postal Service via First Class Mail, postage prepaid on July 5, 2011 and served upon the Registrant, Murray Investments LLC at the address of P.O. Box 143043, Fayetteville, GA 30214.



Dr. Isolde Kurz
July 5, 2011